

**A DRAFT**

**COMPREHENSIVE AGREEMENT FOR  
IMPROVEMENT OF EARLY CHILDHOOD EDUCATION,  
REFORM OF LOCAL EDUCATION FUNDING,  
CREATION OF PERMANENT SCHOOL DISTRICT BOUNDARIES,  
REVISION OF CAPITAL BUDGET PROCESS FOR  
PUBLIC SCHOOLS, AND RESOLVING STATE SCHOOL FINANCIAL  
DEFICIENCIES RELATIVE TO THE PUBLIC SCHOOL  
SYSTEMS IN SHELBY COUNTY.**

**By Mike Ritz, Shelby County Commissioner**

During the summer of 2008 County Commissioner Mike Carpenter held several community meetings resulting in a report titled "Fund Shelby Schools". On October 3, 2008 City Council Chairman Myron Lowery and County Commission Chairperson Deidre Malone convened a day long Public Education Funding Summit on the challenges facing the county's two school systems. The two chairpersons appointed an Ad Hoc Committee on Public Education Funding Solutions. Several proposals have been heard by the Lowery/Malone committee since its first meeting on October 23. This "Proposed Comprehensive Agreement" is presented to provide a balanced, middle of the road, comprehensive proposal to better fund and manage the public financing of the two school systems.

**IMPROVING QUALITY OF EARLY CHILDHOOD EDUCATION**

As determined in a similar 2002 Memphis Public Education effort, the most important goal of any reform effort should be improved student achievement. Operating funding reforms should be targeted to instructional methods that can make a positive difference for children in our community. Improved early childhood education provides the best potential for better student achievement. Extensive research data supports improved student readiness for school when developmentally appropriate educational experiences are targeted to "at-risk" four-year old children in the year prior to entering Kindergarten.

MCS should expand its pre-Kindergarten program from 146 pre-K classrooms and 2920 students to 200 pre-K classrooms and 4000 students in the near term. The new pre-K classrooms could be in current city school facilities or in non-traditional "temporary" spaces or near the location of employment centers. SCS may choose to likewise expand their pre-K program. The pre-Kindergarten program should offer services to all four-year-old children who qualify for free or reduced price lunches, and who live in the Memphis City Schools District. All eligible children by the beginning of the 2010-2011 school year should have pre-K available.

## **WEIGHTED ADA SHARING OF LOCAL OPERATING FUNDS**

The 2002 Committee recommended that the Board of Education of the Memphis City Schools and the Shelby County Board of Education should enter into a contract to share local educational operating revenues based upon a new formula to be known as Weighted Basic Education Program Average Daily Membership, W(BEP)ADM. (See Exhibit A) The W(BEP)ADM formula will target local operating revenues (combined with other state and federal funds) toward the reduction of K-3 class sizes to 17 or fewer "at-risk" children, as defined in the Tennessee BEP, per certified teacher in both school districts. It is further agreed that all local operating revenues for both Memphis City Schools and Shelby County Schools shall be provided from one local governmental source and "One-Source" funding shall be phased-in over three fiscal years as described below.

## **ONE-SOURCE LOCAL OPERATING FUNDING**

It is agreed that effective in Fiscal Years 2009, 2010, and 2011, the Shelby County Board of Commissioners shall increase the Shelby County funds allotted to the education operating expenses of MCS and SCS by a total of \$5,000,000. Thereafter, the Shelby County Board of Commissioners shall maintain at least an equivalent (maintenance of effort based state definition of that term) effort in funding the operating budgets of both MCS and SCS. During the same three fiscal years described above, the Memphis City Council shall eliminate its contribution to the operating budget of MCS, and the Memphis City Council shall reduce its property tax rate for education operating expenses by a corresponding amount. However, the Memphis City Council shall not be required to eliminate its contributions in equal annual amounts. The City of Memphis shall assume existing annual capital debt service costs previously borne by MCS.

## **MULTIPLE SOURCE LOCAL OPERATING FUNDING**

It is agreed that, following full implementation of One-Source operating funding in FY05, there shall be no further required contribution of local government funds for educational operations to either MCS and/or SCS other than the annual public school appropriation of Shelby County, Tennessee under the legislative authority of the Shelby County Board of Commissioners. However, in the event that specific operational funding inadequacies or specific operational funding needs should not be adequately funded by other state or federal sources, then MCS may choose to request supplementary operating funds from the City of Memphis effective in FY2012.

If the City of Memphis, by a required two-thirds majority vote of the Memphis City Council, approves such a supplementary operating funding request to MCS, then SCS may also elect to seek supplementary operating funding through the Shelby County Commission from any taxes levied within the geographic area served by SCS. A two-thirds majority vote of the Shelby County Board of Commissioners shall also be required to approve supplementary operating funding for SCS. Such supplementary operating



funding per-student to SCS shall be the equivalent or less than the per-student amount generated by the City Council for MCS during the same fiscal year.

The division between MCS and SCS of operating proceeds generated by such additional operating funding shall be determined by a contract negotiated by the MCS and SCS Boards of Education. Factors to be considered in the contract would include, without limitation, the source of the tax funds being raised by Shelby County, the per-pupil property taxing capacity of the respective districts, and benefits, if any, which SCS receives in the distribution of state funds as a result of county-wide assessments of wealth, need, or taxing capacity.

In the event that MCS and SCS could not agree upon the terms of a formula and contract, SCS could forego the supplementary funding request, or submit the matter to non-binding arbitration under the rules of the American Arbitration Association. Upon receipt of the arbitration decision, SCS would have the option of pursuing the supplementary funding pursuant to the arbitrator's award, or foregoing its request for supplementary local operating funding. These procedures would apply only to fiscal years in which MCS actually obtained supplementary operating funding from the City of Memphis.

#### **CAPITAL IMPROVEMENT PROGRAM (CIP) FUNDING**

The August 2005 Agreement between the Shelby County Commission, Memphis City Schools, and Shelby County Schools for a four year \$360 million capital plan expires in the current FY2009 with \$60 million for the two school systems.

It is agreed that effective in FY2010 and beyond, the Shelby County Board of Commissioners may choose to issue bonds as permitted under TCA section 49-3-1005(b)(c), (commonly known as "rural school bonds") to fund the capital needs of SCS. The debt service required to retire such "rural" bonds shall be levied only upon taxable properties located within the geographic boundaries of the area served by the Shelby County School District.

The Shelby County Board of Commissioners may also choose to continue to issue general obligation school bonds for the capital needs of both MCS and SCS, and all such general obligation school bond funds shall be divided between MCS and SCS as required by TCA section 49-3-1003(c)(1)(2).

The Shelby County Needs Assessment Committee will continue to review, prioritize and recommend capital budgets to the Shelby County Board of Commissioners. The NAC has proven to be an excellent method to focus, prioritize and make transparent and consistent the capital budget needs of the two school systems.

By July 1, 2010 there will be created a Joint Board of Control which will be responsible for new construction and substantial rehabilitation of all school facilities for both MCS and SCS. The Board will assume the duties of the NAC. The Board will have nine

members – 5 appointed by the County Mayor and confirmed by the Shelby County Board of Commissioners, and 2 each by MCS and SCS. The Board of Control will establish priorities, hire architects, select contractors, and manage construction. The Board from time to time will submit the public school capital budget needs to the Board of Commissioners of Shelby County, who will be responsible for funding the capital budget.

#### **OPERATIONAL BOUNDARIES OF MCS AND SCS**

It is agreed that, effective July 1, 2009, a lasting operational boundary shall be established along the jurisdictional operating boundaries in effect for MCS and SCS during FY2008. This school district operational boundary shall not be affected by annexations now in litigation, or by proposed, pending, or future annexations approved by the Memphis City Council. This lasting school district operational boundary agreement shall not be modified unless both the MCS and SCS Boards of Education execute a joint agreement to modify the operational boundary and adequate provisions are made by the Shelby County Board of Commissioners to retire any outstanding "rural bond" debt.

#### **AMENDMENTS TO TENNESSEE CODE ANNOTATED AND CREATION OF THE SHELBY COUNTY SPECIAL SCHOOL DISTRICT**

It is agreed that all four parties to this Comprehensive Reform Agreement (MCS, SCS, City of Memphis, and Shelby County Government) shall actively petition the Tennessee General Assembly (and especially the Shelby County legislative delegation) for any and all additions, modifications, amendments, or new state legislation required to implement this agreement. These changes shall include amendment of TCA section 7-2-108(a)(18) to eliminate the requirement for school district consolidation as part of metropolitan government consolidation. This agreement shall also include any required changes or amendments to the Charters of the Memphis City Schools or Memphis City Government necessary to implement this Comprehensive Reform Agreement.

It is further agreed that reorganization of county or municipal school districts to "special" school districts (without the exercise of School Board taxing authority in Shelby County) be adopted by the Tennessee General Assembly, signed into law by the Governor, and ratified as required by local legislative bodies.



## **ACCOUNTABILITY**

It is agreed that to insure that W(BEP)ADM local operating funds are actually used to reduce K-4 "at-risk" class sizes, and to insure that a comprehensive and effective pre-Kindergarten program for "at-risk" four year old students in MCS is offered, MCS and SCS will produce annual written evaluations of these efforts for public review by qualified Tennessee State Department of Education professionals. Further, it is agreed by MCS that, effective with the FY09 budget year, MCS will submit its operating and capital budgets to the Shelby County Board of Commissioners for approval in the same manner under Tennessee law that SCS submits its budgets for approval. It is understood that this budget submittal does not convey the authority for line-item budget veto to the Shelby County Board of Commissioners.

## **STATE OF TENNESSEE FUNDING OF LOCAL PUBLIC SCHOOLS**

As noted in a resolution adopted August 5, 2008 by the Board of Commissioners of Shelby County and sponsored by County Commissioner Mike Ritz titled "*Joint Resolution of the Shelby County Board of Commissioners to request and authorize the County Attorney to explore, study and report on the employment of outside counsel and necessary public finance consultants to file suit against the State of Tennessee for fair and equitable state financing of public schools in Memphis and Shelby County*", the State of Tennessee is not providing to Shelby County public school students (MCS and SCS) even the average of the state funding of all public schools in Tennessee. About \$30 million per year in more state funding for fiscal years 2005 and 2006 would have been necessary to just "be equal", with no consideration of the community's extraordinary needs. The FY2007 shortfall was \$19.57 million. The 2007 shortfall was smaller due to the state law change of BEP 2.0 allocations effective July 1, 2006. In the near future, it is anticipated that the Shelby County Board of Commissioners will consider employing outside counsel and expert witnesses for a comprehensive lawsuit against the State of Tennessee over the adequacy, equity, and/or other characteristics of the state's funding of public schools in Shelby County. Such a lawsuit would require the support of MCS and SCS.

## EXHIBIT A

### WEIGHTED BASIC EDUCATION PROGRAM AVERAGE DAILY MEMBERSHIP FUNDING FORMULA

#### *W(BEP)ADM*

The formula to calculate W(BEP)ADM for the division of all local education operating funds is determined as follows. Data will be drawn annually from the Tennessee State Department of Education BEP Worksheet for each prior school year for MCS and SCS.

1. Determine total amount of county taxes for education to be divided between MCS and SCS.
2. Determine total number of K-3 "at-risk" positions as determined by the number of "at-risk" positions funded by the BEP.
3. Calculate number of positions required to staff 75% of the UN-funded BEP K-3 "at-risk" positions in each system. (Note: 75% of all classroom component costs is the amount provided by the state under the Tennessee BEP formula)
4. Calculate the amount of funds to be set aside for BEP K-3 "at-risk" weighting by multiplying the BEP instructional salary amount by the total number of positions determined in #3 above.
5. Deduct total amount for BEP K-3 "at-risk" funds from the total amount of all local county taxes budgeted for education operational funds each year. Each system will receive its proportionate ADM division of this amount on the basis of prior year ADM as determined by the BEP.
6. The calculated total BEP K-3 "at-risk" amount will be divided proportionately on the basis of the number of "at-risk" students in each system.
7. Each system will receive its ADM share of funds (#5 above) plus its share of the BEP K-3 "at-risk" amount (#6 above).

#### **FEATURES OF THE *W(BEP)ADM* FORMULA**

- \* Both MCS and SCS will earn "at-risk" weight linked to the number of "at-risk" K-3 students in the two systems.
- \* Formula is dynamic and parallels annual changes in the numbers of K-3 "at-risk" children in both MCS and SCS.
- \* Reduction of K-3 "at-risk" class sizes will promote best use of local, state, and federal funds that are targeted to children from families living at poverty levels.
- \* All local education operating funding will be derived from one local source.
- \* Operating funds will be divided on the basis of Average Daily Membership.

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